

REMARKS

Claims 15-27 are pending.

Claims 15-27 are rejected.

Claims 1-14 and 28-29 are cancelled.

Claim 15 is amended for clarity purposes.

No new matter was entered in view of these amendments.

ARGUMENTS

I. 35 U.S.C. 101 Rejection to Claim 29

The Examiner rejected Claim 29 as being unpatentable under 35 U.S.C. 101. The Applicants have canceled this claim, rendering the rejection moot.

II. 35 U.S.C. 103 Rejection to Claims 15, 16, 20-27, and 29

The Examiner rejected Claims 15, 16, 20-27, and 29 under 35 U.S.C. 103(a) as being unpatentable over Shintani et al. (U.S. Patent 7,389,522, hereafter referred to as 'Shintani') and in view of Herz et al. (U.S. Patent 6,020,883, hereafter referred to as 'Herz'). Applicants disagree with this ground of rejection.

A. With regard to the feature of the invention as claimed by claim 15 of "wherein said device comprises an automatic control module for ordering downloading portions of said file via said network; and

a storage means accessible to said receiver, that stores portions of said file, designed to order the downloading of each of said portions when the number of points earned by said user reaches a fraction of said predetermined level which corresponds to said each portion from said portions," the Office Action further

recites that this feature is disclosed by Shintani (in view of Herz). The Applicant respectfully disagrees.

Shintani describes that earned points allow to watch a received, broadcasted program, and not, as claimed by claim 15, that earned points allow to download portions of a file to a storage space when the number of points earned reaches a fraction of a predetermined level which corresponds to said portions. That is, Shintani with Herz does not disclose or suggest linking the downloading of portions of a file to the number of points earned where the number of portions of a file downloaded corresponds to the fraction of the number of points earned divided the predetermined number of points for a particular file. This disclosure means that part of a file [the claimed portions] will be downloaded, and the amount of a file downloaded will correspond to the claimed fractional value.

Construing Shintani and Herz in the most favorable circumstance for the Examiner's argument, FIG. 2 of Shintani discloses that one can use points to pay for a pay program (\$10) which is broadcasted (not downloaded as in the present invention, but this is addressed below). The disclosure of FIG. 2 indicates that a pay program, if paid for with points, will be broadcasted in a complete form, not a partial form. This disclosure of Shintani and Herz is different than the present invention, where a file will be segmented into portions, and such portions will be downloaded in relationship to the "a fraction of said predetermined level which corresponds to said each portion from said portions".

B. the Office Action recites that the feature of Claim 15 of "acquisition device for obtaining files by accumulating points, designed for at least one user of at least one receiver of data of at least one communication network" is disclosed by Shintani.

However, Shintani is not at all concerned about obtaining files by downloading. Rather, Shintani is concerned about solving the problem of making sure that viewers view commercial programs. Shintani describes rewarding a viewer of a commercial program with points that are added to a smartcard, and the points on the smart card allow the viewer to pay a broadcasted pay-per-view program.

By contrast, the invention as claimed by claim 15 is concerned about the downloading of files through the earning of points by watching of advertisements.

The invention as claimed by Claim 15 solves a problem not resolved by prior art, of how to download files for viewing by the accumulation of points, while offering the advantages of and of fast and reliable teletransmission delivery of these files (p. 4, lines 14-16).

In addition, the pay-per-view programs of Shintani are not files that are obtained through downloading but rather are broadcasted programs. When a pay-per-view program is broadcasted and a viewer has earned enough points, the user can choose to use the needed points for payment of the broadcasting, see col.4, lines 19-26 (underlining added):

"In step S8, if it is determined that a pay program is being received now, the conditional access interface 9 goes to step S9 to read out the points now stored in the smart card 10 and displaying it on the display 7A together with a message like "Will you use this points for a payment for pay broadcasting?", as shown in FIG 4, for example. The viewer determines whether or not to use the present points for the payment for pay broadcasting."

The reception of broadcasting programs as described by Shintani is not related to the downloading of files. A receiver as described by Shintani is a device that is capable of receiving a broadcasted program for decoding. Amongst others, in no way, Shintani describes that a receiver obtains files and downloads them.

Thus, in no way, Shintani discloses or even suggests the feature of Claim 15 of "acquisition device for obtaining files by accumulating points, designed for at least one user of at least one receiver of data of at least one communication network" and in no way, Shintani discloses or even suggests the feature of "to acquire at least one of said files by downloading of said file via said communication network when the aggregate number of said points reaches a predetermined level associated with said file".

C. In respect to Claim 21, the claim is specific about the composition of the claimed fraction of Claim 15 as being, "where the ratio of sizes of each of said portions with respect to said file is equal to the ratio of the number of points of said fraction associated with said portion with respect to said predetermined level for said file." The Examiner in the rejection states that this claimed element of Claim 21 is found in Herz (with Shintani) where Herz discloses a user profile

where programming selections are prioritized in accordance with an "agreement matrix".

What the Examiner actually refers to (see FIG. 1 of Herz) is an "agreement matrix" which is used to select various shows throughout the day in accordance with a user profile. Such programming decisions, as made by the disclosures of Herz (with Shintani) has nothing to do with correlating a fraction between, "portions with respect to said file is equal to the ratio of the number of points of said fraction associated with said portion with respect to said predetermined level for said file", (for example, correlating the portions of a file downloaded to the ratio of the number of points earned over the total predetermined number of points needed to completely receive a file).

For the reasons given above, Applicants assert Claims 15 and 21 are patentable over the cited art of record. In addition, Applicants assert that Claims 16, 20, and 22-27 are patentable over the cited art of record.

III. 35 U.S.C. 103 Rejection to Claims 17-19

The Examiner rejected Claims 17-19 under 35 U.S.C. 103(a) as being unpatentable over Shintani et al. (U.S. Patent 7,389,522, hereafter referred to as 'Shintani') and in view of Herz et al. (U.S. Patent 6,020,883, hereafter referred to as 'Herz'), and in further view of Maruyama et al. (U.S. Patent Publication 2003/0167205A1, hereafter referred to as 'Maruyama'). Applicants disagree with this ground of rejection.

Because such rejected Claims 17-19 depend on allowable Claim 15, would also not have been obvious for the skilled in the art at the time of filing. Amongst others, none of the documents cited by the Office Action discloses any file download, or disclose any file download conditioned by a reach of a predetermined level of aggregate number of points, or disclose a download of a portion of files. Nor would the skilled in the art find any teaching in the combination of the documents cited by the Office Action, which would have lead him to realize an acquisition device as claimed by Claim 15. Shintani describes earning points for payment of broadcasted pay-per-view programs. Herz describes a system and method for scheduling the receipt of desired movies

based on collected customer profiles. Maruyama describes attributing points to users that are shopping on internet and where the accumulated points are converted in presents or other shopping advantages in order to make on-line shopping more attractive. All of these documents are rather far from the invention as claimed by claim 15, and the skilled in the art would not have found any teaching in any of the cited documents, nor in their combination, that would have lead him to realize an acquisition device for obtaining files as claimed by Claim 15.

Applicants assert therefore that the cited art of record neither discloses nor suggests the claimed features of Claims 17-19.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application is in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6809, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,

/Joel M. Fogelson/

By: Joel M. Fogelson
Reg. No. 43, 613
Phone (609) 734-6809

Patent Operations
Thomson Licensing Inc.
P.O. Box 5312
Princeton, New Jersey 08543-5312
May 18, 2009